

2017 through December 31 by small refiners and small volume refineries approved under § 80.1622.

**§§ 80.1617–80.1619 [Reserved]**

**§ 80.1620 Small refiner definition.**

(a) For the purposes of this subpart O, a gasoline small refiner is defined as any refiner who meets all the following criteria and has been approved by EPA as a small refiner per § 80.1622:

(1) Produces gasoline at its refineries by processing crude oil through refinery processing units.

(2) Employed an average of no more than 1,500 people, based on the average number of employees for all pay periods for calendar year 2012 for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners.

(3) Had a corporate-average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 2012.

(b) For the purposes of this section, the term “refiner” shall include foreign refiners.

(c) The number of employees and crude oil capacity under paragraph (a) of this section shall be determined as follows:

(1) The refiner shall include the employees and crude oil capacity of any subsidiary companies, any parent company and subsidiaries of the parent company in which the parent has 50 percent or greater ownership, and any joint venture partners.

(2) For any refiner owned by a governmental entity, the number of employees and total crude oil capacity as specified in paragraph (a) of this section shall include all employees and crude oil production of the government to which the governmental entity is a part.

(d) Notwithstanding the provisions of paragraphs (a) and (e)(1) of this section, a refiner that acquires or reactivates a refinery that was shut down or non-operational during calendar year 2011, may apply for small refiner status under this subpart O.

(e) The following are ineligible for small refiner provisions under this subpart O:

(1) Refiners with refineries built or started up on or after January 1, 2012.

(2) Persons who exceed the employee or crude oil capacity criteria under this section on January 1, 2012, but who meet these criteria after that date, regardless of whether the reduction in employees or crude oil capacity is due to operational changes at the refinery or a company sale or reorganization.

(3) Importers.

(4) Refiners who produce gasoline other than by processing crude oil through refinery processing units.

(f)(1) A refiner approved as a small refiner under § 80.1622 who subsequently ceases production of gasoline from processing crude oil through refinery processing units, employs more than 1,500 people, or exceeds the 155,000 bpcd crude oil capacity limit after January 1, 2012 as a result of merger with or acquisition of or by another entity, is disqualified as a small refiner, except as provided for under paragraph (f)(4) of this section. If such disqualification occurs, the refiner shall notify EPA in writing no later than 20 days following the disqualifying event.

(2) Except as provided under paragraph (f)(3) of this section, any refiner whose status changes under this paragraph (f) shall meet the applicable standards of § 80.1603 within a period of up to 30 months from the disqualifying event for any of its refineries that were previously subject to the small refiner standards of § 80.1623.

(3) A refiner may apply to EPA for up to an additional six months to comply with the standards of § 80.1603 if more than 30 months would be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time. EPA will base a decision to approve additional time on information provided by the refiner and on other relevant information.

(4) Disqualification under this paragraph (f) of this section shall not apply in the case of a merger between two previously approved small refiners.

(5) If a refiner receives a delay per paragraphs (f)(2) and/or (f)(3) of this section, the refiner may not generate gasoline sulfur credits under this subpart O during that 30 or 36 month period.

(6) All written notifications to EPA should be submitted to the address listed in § 80.1622.

**§ 80.1621 Small volume refinery definition.**

(a) For the purposes of this subpart O, a gasoline small volume refinery is defined as any refinery that meets all the following criteria, and has been approved by EPA as a small volume refinery per § 80.1622:

(1) Produces gasoline by processing crude oil through refinery processing units.

(2) The average aggregate daily crude oil throughput, including feedstocks derived from crude oil, for the calendar year 2012 (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels. Throughput means the total crude oil feedstock input into the refinery less volumes injected into the crude oil supply after refinery processing.

(b) The following are ineligible for the small volume refinery provisions under this subpart O:

(1) Refineries built or started up on or after January 1, 2013.

(2) Persons who exceed the crude oil throughput under this section for calendar year 2012 but who meet these criteria after that date, regardless of whether the reduction in crude oil capacity is due to operational changes at the refinery or a company sale or reorganization.

(3) Importers.

(4) Refineries that produce gasoline other than by processing crude oil through refinery processing units.

**§ 80.1622 Approval for small refiner and small volume refinery status.**

(a) Applications for small refiner or small volume refinery status under this subpart O must be submitted to EPA by January 1, 2015.

(b) To qualify for small refiner status under this subpart a refiner must submit an application to EPA containing all the following information for the refiner and for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners:

(1)(i) A listing of the name and address of all company locations for the period January 1, 2012 through December 31, 2012.

(ii) The average number of employees at each location, based on the number of employees for each pay period for the period January 1, 2012 through December 31, 2012.

(iii) The type of business activities carried out at each location.

(iv) For joint ventures, the total number of employees includes the combined employee count of all corporate entities in the venture.

(v) For government-owned refiners, the total employee count includes all government employees.

(2)(i) The total corporate crude oil capacity of each refinery as reported to the Energy Information Administration (EIA) of the U.S. Department of Energy (DOE), for the period January 1, 2012 through December 31, 2012. The information submitted to EIA is presumed to be correct. In cases where a company disagrees with this information, the company may petition EPA with appropriate data to correct the record when the company submits its application.

(ii) Foreign small refiners applying for approval under this section must send the total corporate crude oil capacity of each refinery for the period January 1, 2012 through December 31, 2012, to the address listed in paragraph (g) of this section.

(3) The application must be signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information is true to the best of his/her knowledge, and that the company owned the refinery as of December 31, 2012.

(4) Name, address, phone number, facsimile number, and email address of a corporate contact person.

(c) To qualify for small volume refinery status under this subpart, a refiner must submit an application to EPA containing all the following information for the refinery, or refineries, for which the refiner is applying for small volume refinery status:

(1) A listing of the name and address of each small volume refinery owned by the company.